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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/772,162 | 02/03/2004 | Jurgen Morton-Finger | 22793 | 1883 |

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EXAMINER

EDWARDS, NEWTON O

ART UNIT PAPER NUMBER

1774

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,162

Applicant(s)

MORTON-FINGER, JURGEN

Examiner

N Edwards

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2004 and 22 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4 and 8-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1774

Applicant's arguments filed 11/2/04 and 11/22/04 have been fully considered but they are not persuasive.

Applicant urged that 1) claims 3 and 4 should be reinstated with Group I (claim 1, 2, 5, 6 and 7) because they are directed to sheath core or a side by side configuration can alter the fact that these claims are directed to a monofilament.

Simply stated, Applicant has failed to show any relationship between a monofilament, a side-by-side fiber, and a sheath core fiber. There is no showing that a sheath core fiber or a side by side fiber can be alter to be a monofilament of claim 1 with 3 layers. The request to combine claim 3 and 4 (Group II) with Group I is denied.

Applicant argues that 2) the restriction between Group III Group I and II is traversed because the process recited are not at all different from recited in claim 8.

First of all, Group III, directed to a method of making a monofilament, has nothing to do with making a sheath core fiber or a side-by-side fiber of Group II. Secondly, claim 8 has 3 methods steps of spinning, applying and applying. The restriction recited 6 methods steps but so how Applicant concludes that they are the same.

Applicant urges that 3) spinning in claim 8, the spinning can very well be a coextrusion.

Interesting, the above will be known as Applicant admission 1. Where in your spec is the above stated. There is no showing that spinning is that same as coextrusion.

Art Unit: 1774

Applicant urges that 4) the step of applying the bounding agent and the second layering are the same.

For the record the above will be known as Applicant admission 2. Where in your spec is the above stated?

Applicant urges that 5) cooling, drawing, and winding are concerned those are not excluded in the Group I and Group II claims.

Really, Group I is a monofilament and Group II is a side by side fiber and sheath core fiber. No where in the Group I and Group II claims are the above steps mentioned. Therefore, Group III will not be combine with Group I.

Applicant request 6) merger of claim 3 and 4 Group II with Group I.

See the response supra for argument 1 for a response. The restriction is proper for reasons of record and hereby made FINAL.

Applicant election of group I claim 1, 2, 5, 6 and 7 is acknowledged. Applicant's election of the species for claims 5, 6, and 7 is acknowledged.

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because there is no drawing of claim 1 monofilament or claim 4 side by side structure to complete the application. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance. No new matter may be introduced in the required drawings.

Art Unit: 1774

The drawings are objected to under 37 CFR 1.83(a) because they fail to show a multilayer monofilament of claim 1 or a side by side structure of claim 4 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 1774

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tanka (U.S. 5,071,705).

Tanka teaches a three layered (composite) fiber where in layers 1, 2, and 3 are bounded to one another. See fig 1 and figure 2, for example. Tanka further teaches that at least one of the layers can be polyethylene, polypropylene, polyamide, and polyester. See column 2, line 61.

Claims 1, 2, 6 and 7 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rasmussen (U.S. 4,229,394).

Rasmussen teaches three layer fibers wherein layers 1-3 are boned together. Rasmussen also teaches at least one of the layers can be polyamide, polypropylene, PET, polylyethylene, for example. See Example 9, Example 14, column 12 line 25.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The enclosed patent discloses the state of the prior art.


Claims 5 is objected to as being dependent upon a rejected base claim, but would be allowable if written in independent form with claims 6 and 7.

Art Unit: 1774

Any inquiry concerning this communication should be directed to Primary Examiner Edwards at telephone number 571-272-1521.

Primary Examiner Edwards/af

January 11, 2005



N. EDWARDS
PRIMARY EXAMINER